

YARRA CITY COUNCIL

FINANCE & GOVERNANCE COMMITTEE MEETING

AGENDA

**to be held on Monday 3 April 2006 at 6.30 pm
at the Richmond Town Hall**

Councillor Membership

Cr Jenny Farrar (Chair)
Cr Paul D'Agostino
Cr Jackie Fristacky
Cr Stephen Jolly
Cr Kay Meadows

Council Officer Attendees

Lydia Wilson (Chief Executive Officer)
Geoff Cockram (Director Corporate Services)
Jane Homewood (Director City Development)
Craig Kenny (Director Community Development)
Bryan Lancaster (Director Asset Management)
Erin Nairn-Marcon (Governance Adviser)

- I. ATTENDANCE**
- II. DECLARATIONS OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**
- III. COMMITTEE BUSINESS REPORTS**

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***Welcome to the City of Yarra.
Council acknowledges the
Wurundjeri community as the first
owners of this country.
Today, they are still the custodians
of the cultural heritage of this land.***

***Further to this, Council acknowledges
there are other Aboriginal and Torres
Strait Islander people who have lived,
worked and contributed to the
cultural heritage of Yarra.***



Public Participation at Council and Committee Meetings

PrOCEDURE

1. The Yarra City Council welcomes the opportunity for members of the public to address Council, Special Committees and Council's Internal Development Approvals Committee in accordance with this procedure.
2. The following guidelines apply to public questions and submissions:
 - (a) public question time is restricted to 15 minutes, 2 questions per person, and **five (5) minutes per speaker**;
 - (b) the Chairperson has the sole discretion to extend speaking times or vary conditions of these guidelines;
 - (c) the minute clerk or the Chief Executive Officer shall advise the Chairperson when speaking times have expired;
 - (d) within reason, there will be no time restriction imposed on submissions under section 223 of the *Local Government Act* 1989 (the opportunity to speak to a previously lodged formal written submission pursuant to that section of the Act);
 - (e) where a number of people wish to make a submission on the same subject, a representative speaker is encouraged. Speakers are asked to restrict themselves to new comments and not repeat points made by other speakers
 - (f) all public comment is to be made prior to commencement of debate on matters to be determined;
 - (g) persons addressing the meeting shall confine themselves to the subject under consideration;
 - (h) town planning permit applicants shall be given an opportunity to present their submission before objectors and may exercise a right of reply following the hearing of all submissions.
3. The general provisions of these guidelines shall be made known to all intending speakers and members of the public, prior to the commencement of business at meetings.

FINANCE & GOVERNANCE COMMITTEE MEETING

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1.1 Proposed Naming of Road – Munnering Lane

File: 55/60/02
Responsible Officer: Valuations Coordinator

Purpose

1. To report on the outcome of a Street naming proposal and to recommend to Council a suitable name.

Background

2. In 2002 Council received an application for the naming of the right of way between Wilson and McIlwraith Streets in Princes Hill. At that time Council's Engineering Branch advised that the right of way was a road that should not be named. Therefore the application did not proceed.
3. The applicant approached Councillor Fristacky in December 2004. A request for naming was made via a question during Council question time at the 8 February 2005 meeting of Council. The street naming process was recommenced at this time.
4. The name proposed for the road is 'Munnering Lane.'

Road Naming Process

5. Council's Road Naming policy is as follows:

Policy Extract

6. *"Council shall assign street names in relation to the approval of plan of subdivisions process and applications received for naming or renaming roads in accordance with the requirements set out in this policy."*

Street names are to be generally chosen from proper names such as first names, names of cities, towns, botanical and zoological names of the Australasian region and names connected with the municipal district."

Procedures

7. *"Correspondence is sent to all affected parties giving notice of the Street naming proposal. The letter outlines the background of the name and invites written comments to be provided within 14 days."*

If there is general acceptance of the name, all relevant authorities are advised and street signs are erected shortly thereafter."

If there is not general acceptance then the issue is referred to Governance for elevation to Council."

Authority

8. Council's authority to name streets is contained in clause 5(1) (a) of Schedule 10 of the *Local Government Act 1989*.

Social Implications

9. A new initiative looked at using indigenous names for new streets. This initiative is supported by Council's Yarra Aboriginal Partnerships Plan (YAPP) adopted by Council in August 2004.
10. YAPP identifies a set of actions by which Council can build meaningful and lasting Reconciliation with Wurundjeri people as the traditional owners of the land within Yarra, including by increased acknowledgement in the form of street naming (Strategy 1, Action 4).
11. Important community implications identified by YAPP are:

Valuing and Acknowledging Culture

- (a) addressing the need for recognition that Aboriginal culture is an important part of Australian life and society; and

Sharing History

- (b) increasing the understanding and knowledge of all Australians about the history of Aboriginal people in Australia.

Consultation

12. The naming request was referred to Council's Community Planner Aboriginal Partnerships for consideration, including input into the provision of an appropriate name for the laneway. The brief required the name to be associated with the Princes Hill area. The suggested name was 'Munninger.' The reasons given for the name are as follows:

"Munninger was the name of an Aboriginal man who lived in the area and had the respect of both Wurundjeri people and white settlers. He had received a basic education at the Merri Creek School and was a handsome and intelligent young man. His early death at Melbourne Hospital was greatly mourned by his clan's people. When he died both Indigenous and non-Indigenous communities came to mourn him as a respected member of the community. He is buried in the Melbourne Cemetery."

13. The street name was researched with the assistance of the Koori Heritage Trust and approved by Aboriginal Elders. The name was also approved by the Yarra Aboriginal Advisory Group.
14. As is required by the Street Naming Policy, owners and occupiers affected by the proposal received a letter dated 17 November 2005 giving notice of the proposed name (235 in total). It was requested that written comments should be forwarded to Council within 14 days.

Results of Consultation Process

15. Favourable responses were received in writing from 16 residents.

16. Favourable responses were received via telephone from four residents.
17. One unfavourable petition signed by approximately 56 residents and ratepayers was received. The statement in the petition reads:

"List of signatures in support of 'Hardy Lane' as the new name for the right of way to the rear of 2-112 Wilson, and 1-133 Mcilwraith Streets Princes Hill."
18. No submissions were received indicating that the laneway should not be named.

Options

19. A number of options are available to move the matter forward:
 - (a) use the name 'Munnering';
 - (b) use the name 'Hardy'; or
 - (c) use a new name.
20. The option of not naming the road should not be considered as no opposition to the naming was received.

Proposal

21. It is proposed that the name 'Munnering' be used to name the road, as this name clearly meets the requirements of the Yarra Aboriginal Partnership Plan, and a significant number of residents agree with the proposal.
22. The name "Hardy" was considered, but discounted as Hardy Reserve is located on the south side of Macpherson Street (on the Melbourne City Council side adjacent to Melbourne Cemetery). This reserve also has a statue and monument to "Hardy". The Hardy name is already well represented in the area.

RECOMMENDATION

23. That:
 - (a) the name 'Munnering Lane' be confirmed as the name of the right of way located at the rear of 2-112 Wilson and 1-133 Mcilwraith Streets in Princes Hill and all of the necessary procedures required to finalise the matter be completed.
 - (b) on completion of all necessary procedures suitable street signage be installed.

CONTACT OFFICER: Bill Graham
TITLE: Valuations Coordinator
TEL: 9205 5270

Councillors have received copies of all submissions and petitions pertaining to this item. This material is confidential as it contains personal information.

1.2 Property Identification Process

Executive Summary

Purpose

To provide an overview of the property identification and matching issues that Council is experiencing (primarily in the context of rubbish collection and the provision of parking permits) and suggest action to address these issues.

Key Issues

A number of the applications that Council receives for the provision of services are linked to properties that are not on Council's global property database (Proclaim). Council will need to clarify or refine the basis on which Council services will be provided and whether (and on what terms) it will continue to provide such services to properties not currently identified on its property database.

Financial implications

There may be some minor changes in rates received from properties.

Social Implications

Council will need to undertake a community information program documenting the new basis on which a resident within a "mismatched" property will be provided with a Council service and also the basis on which the provision of a service may cease. Information will also need to be made available to explain how to bring a property within Council's rating system.

Council Plan, Strategy and Policy Implications

As an adjunct to the current process, Council should develop and adopt a policy on the provision of rubbish services across the municipality to clarify entitlements and responsibilities.

Legal Implications

Council could consider conducting an audit of each property to bring it within Council's rating system and also into compliance with planning controls and building laws. However, Council has received legal advice indicating that it is under no obligation to conduct such an audit or investigation where it is only occasioned by the database discrepancy. However, it would be under a duty to investigate or take action if it had specific knowledge or evidence indicating that the planning scheme was not being complied with or specific knowledge of a danger to life, safety, health or property in relation to particular land.

Proposal

That Council implement a range of measures to manage those properties which cannot be located on Council's property database. Refer to the recommendation at the foot of this report for full details.

1.2 Property Identification Process

File:

Responsible Officer: Director City Development / Director Corporate Services

Purpose

1. This report provides Council with an overview of the property identification and matching issues that we are currently experiencing within the organisation.
2. It aims to provide Council with a concise picture of the impacts on many of our business units and suggests a plan of action that can be implemented to tackle this issue.

Background

3. ProClaim (Council's Property and License Management Software) was introduced on the 1st July 2000. Implementation was gradual, with Health, Planning, Community Amenity, Building and Parking Permits making up the larger licensing and enforcement modules.
4. Prior to using ProClaim, many of the business units of Council used stand-alone applications such as customised TRIM, Plan and DataPro. This allowed users to record and create a file or an application for any property address they wanted and there was no checking against a corporate property database to confirm the "existence" of a property.
5. When it came time to migrate data from their old applications to ProClaim, there was varying success in relation to being able to "match" each property address to an address on Council's global property database. This was a lengthy, labour intensive process with some being able to be matched easily through either:
 - (a) electronic, automated matching; and
 - (b) manual matching for obvious/easy to determine matches.There were many that could not be matched easily. In these instances, Valuations were consulted to assist in the matching.
6. There are many reasons why a residential property within the municipal area may not currently appear/exist on our ProClaim property database, including:
 - (a) they use a different property address to the one we know it as;
 - (b) they are missing from our database;
 - (c) they are not currently rated;
 - (d) a single property may have a dual use such as shop/dwellings;
 - (e) conversion of a property into a boarding house;

- (f) they may comprise a business with a caretakers dwelling; and
 - (g) they may have been created in the absence of a planning permit (say, by internal reconfiguration of a factory into 2 units) and/or the absence of an occupancy permit.
7. Council still has a pool of properties that are “unmatched”, for example, there are approximately 170 current parking permits issued to properties that were not found in Council’s global property database.
 8. A working group was formed with relevant officers in August 2004 to work through these issues.

Issues

9. Currently, there are a vast number of current and past applications contained in Council’s records that relate to properties which are not individually documented on Council’s global property database. These include the following.

Unmatched Applications

10. Approximately 500 Current Applications attached to Richmond Town Hall at 325-333 Bridge Road, Richmond created from 2003 to the present (comprising mainly applications in respect of land under Council’s control or with no property address such as temporary footpath trading licences, direction signs, Health Act registration for festivals, baby capsule hire, staff parking permits and the like) The majority of these applications are appropriately allocated to the Town Hall, and the Proclaim system is soon to be refined to designate sections of roadways and footpaths. Only a minor proportion relate to files or applications which relate to private, addressed land that is not located on Council’s property database.
11. Approximately 3500 Past Applications created from 2001 to the present (from the date of the new computer system) for planning or building permits, enforcement, Health Act registration, public space licences and the like are attached to Richmond Town Hall at 325-333 Bridge Road, Richmond(see comments above as to the nature of these files).
12. Approximately 170 Current Parking Permit Applications from 2003 created via a separate addressing system for a property that does not match Council’s property database (by using the address provided on the application).
13. Approximately 1300 Past Parking Permit Applications from 2000 created via a separate addressing system for a property that does not match Council’s property database (by using the address provided on the application); and
14. Approximately 750 properties receive a rubbish collection service although they are not listed on Council’s property database (identified through daily bin requests and previous bin rollouts).
15. These “unmatched” property numbers continue to grow due to new applications for which we can not find a listing in Council’s property database. The effect is that Council continues to issue rubbish bins and residential parking

- permits to premises that are not on Council's property database (and are therefore not rated individually)
16. here is also a "process" issue to be addressed via internal business unit protocols to prevent a file from being attached to the Town Hall unless it relates to applications made on behalf of Council. It is important to protect the integrity of Council's database by storing information on Health Act applications, staff parking permits, baby capsule hire and the like on separate databases that are not specifically property-related.
 17. Council should appreciate that tenants will often request a service from Council but the owner is in fact the person/entity required to co-operate to provide rates records or to bring the property within Council's rating system.
 18. In the longer term (2007/08), Council should consider whether to charge for the provision of bins and collection of rubbish as part of its rating strategy. This would potentially be a more equitable and sustainable way to provide this service.

Legal Implications

19. Legal advice has been received on the issue of whether (and to what extent) Council is under an obligation to investigate properties that cannot be located on Council's property database to ascertain compliance with planning and building laws. Having regard to the impetus for such an audit (the mismatching of properties in connection with the provision of Council services), the resources required to be allocated to a full compliance audit and other matters such as Council priorities, it is considered that Council will only have an obligation to take action in respect of properties for which it has specific knowledge of a risk or evidence of potential non-compliance with planning or building laws.

Financial Implications

20. There may be some minor changes in rates received from properties . If a compliance audit is occasioned by investigation of a "mismatched" property, Council will need to resource its business units to bring the property into compliance with building and planning laws if the owner refuses to do so.

Economic Implications

21. There may be an initial impact on staff resources if Council is to proceed with the recommendations of this report; however this is unlikely to be sustained over the long term.

Social Implications

22. No direct implications if recommendation is proceeded with.

Council Plan, Strategy and Policy Implications

23. Council will need to undertake a process of informing the public of the basis on which Council services such as rubbish collection or parking permits will now be allocated to properties not currently on Council's property database. This public education process could also target real estate agents working across the municipality.

This process could include a Press Release and Fact Sheet (such as an Easy Guide to applying for a bin or permit or other Council service).

Options for Resolution and Future Applications

24. In resolving the “mismatch” of property records and entitlements, key objectives should be to:
- (a) ensure the equitable provision of services to ratepayers;
 - (b) improve the integrity of Council’s property database; and
 - (c) support Community Amenity in conducting compliance audits of properties not currently on Council’s property database where Council has specific evidence of non-compliance with planning controls or building laws.

25. There are a number of ways that Council can proceed.

Option 1 – Active Audit

26. If Council considers that such action is warranted, it could undertake to investigate each property that is being or has been provided with a Council service but that does not currently appear on Council’s database with a view to ensuring compliance with planning and building laws.
27. This is a labour intensive project that has long-term financial and staff resource implications. Importantly, the associated public benefit must be considered. In some circumstances, it may not be legally possible to “legalise” an occupation, for example, if a dwelling is a prohibited use in the relevant zone and existing use rights cannot be demonstrated. In other cases if a permit is to be sought for an unauthorised use of land, the planning merits may not support this ongoing use.
28. There is limited public benefit that would flow from a compliance audit, relative to Council’s priorities in the areas of planning, building and compliance and given the complexity of the process, the nature of the cost, Council capacity and the likely timeframe involved.
29. The focus of the process outlined in this report is on the rectification of Council entitlements to services. There is not necessarily any direct link with Council’s general obligations to administer and enforce the planning scheme or building law requirements any more than there is cause to believe that any other property in the municipality would be non-compliant.
30. Therefore, in the case where Council has no information to suggest that a particular property does not comply with planning or building laws, a full compliance audit of the pool of “mismatched” properties is not advisable. Council has received advice that there is no legal obligation to do so. In addition, the resources involved with resolving the ongoing lawful use of each property would be great and the public benefit has not been demonstrated. An audit of such a substantial number of properties should only be conducted in line with Council’s identified enforcement priorities for the municipality (or certain categories of use/development) as a whole.

Option 2 – Development of Policy

31. It is suggested that Council should adopt a policy that documents the basis on which it will continue to provide services to residential properties. This should be founded upon the premise that only those properties which are rated by Council will be provided with such a service, unless exceptional circumstances apply.

For all applications or renewals for properties not currently included in Council's property database, a policy could be adopted taking effect *from the date of Council's resolution* providing:

- (a) a Council service such as rubbish collection or a parking permit will only be provided to a residential property that is currently subject to the payment of rates for residential land. This includes any service where a temporary permit has issued or lapsed, or where a replacement service (such as a new bin) is being claimed by a property not on Council's property database. This should also include the renewal of an annual parking permit;
 - (b) a discretionary 3 month temporary parking permit may be issued to allow time to bring the property within the rating system. These permits should be easily identifiable (such as by colour/date stamp/licence plate and address) and non-renewable; and
 - (c) failing this, a Council service will not be provided to that residential property or will be terminated, irrespective of past practice. No parking permit or service can be provided to a property that is not on Council's property database.
32. If Council receives information that suggests that a particular property does not comply with the Yarra Planning Scheme or building laws while investigating a claim for an entitlement to a Council service, Council should conduct an investigation and enforcement (if required) in the normal course. Compliance audits should be limited to particular knowledge of a risk or non-compliance relating to an individual property.
33. Parking permits are renewable annually and all parking permits can be "regularised" by the above policy within the next 12 months. However, it is considered to be potentially inequitable to withdraw a rubbish collection service from a residential property that currently has one and has paid the one-off service fee.
34. Alternatively, if Council only considers itself obliged to service residential properties which are rated, it would be entitled to give notice that *existing* rubbish collection services to properties not currently on Council's database will be discontinued within a certain period of time unless the applicant can demonstrate that the property is being brought within the rating system.
35. The question remains how to treat a property if a resident withdraws an application for a Council service on the basis that the owner will not "legitimise" the property under Council's rating system. Irrespective, it is recommended that Council should pursue the rating of such properties in order to preserve the integrity of its rating system.

Other Issues

36. It is recommended that aside from these measures, files relating to “mismatched” properties identified to date be recorded on a separate register. The only recommended action in relation to these existing files is that they be redesignated to the various management areas within Council (so far as possible) and thereby removed from the list of files allocated to the Richmond Town Hall. The occasion for dealing with the content of any one of these files or properties would be if a service is requested or sought to be replaced or altered for a “mismatched” property. In this way, Council can focus on current issues.
37. Council has been faced with the theft of rubbish bins and their use by unauthorised properties. Council needs to consider that there may be increased incentive for this to occur if only rated properties will be provided with rubbish collection. However, it is considered that this consequence should be considered in the context of the *management* of Council services – there are measures such as fully addressing each bin or microchipping that could prevent widespread abuse of the rubbish collection service.
38. In investigating this issue, it is apparent that there is no policy for the provision of rubbish collection services in the municipality. Such a policy should be developed for the sake of transparency and consistency of decision making.
39. It is suggested that Council’s Community Amenity Unit officers and Valuer be responsible for investigating mismatched and possibly unrated properties to ensure the integrity of Council’s property database. These officers should also be responsible to notify any other business units of Council of any follow-up action that may be required.
40. A public education program be developed and implemented to advise the community of the policy: Council will only issue a residential parking permit or engage in residential rubbish collection or provide a service in respect of a residential property that is within Council’s residential rating system and identified in its global property database, including the renewal, alteration or replacement of such a service or permit

RECOMMENDATIONS

34. That Council resolve as follows:
 - (a) Council only issue a residential parking permit or engage in residential rubbish collection or provide a service in respect of a residential property that is within Council’s residential rating system and identified in its global property database, including the renewal, alteration or replacement of such a service or permit;
 - (b) Given the current management of rubbish collection services, such services will not be removed from the approximately 750 properties which are provided with this service as at 28 February 2006, even though they are not currently on Council’s global property database. The provision of such a service will revert to that documented in resolution (a) if this service is sought to be renewed, altered or a replacement rubbish bin is required for any of these properties.

- (d) When a resident makes a parking permit application for a property that is not on Council's property database that a temporary permit may be issued for 3 months to enable the property to be brought within Council's rating system. If the property is not brought within Council's rating system within 3 months, no further parking permit or extension may be issued.
- (e) No further investigation be undertaken at this time in relation to past (concluded) and current applications allocated to the Richmond Town Hall, except to redesignate them to the appropriate Business Units of Council where possible.
- (f) Each unit of Council which has been contributing to the files attached to the Richmond Town Hall develop protocols for applications relating to properties not currently on Council's property database and/or non property issues that would be more appropriately located on alternative databases;
- (h) Council develop a policy on the provision of rubbish services across the municipality to clarify entitlements and responsibilities.
- (i) Subject to budget provision and contract negotiations, Council implement the progressive external addressing of each existing and newly supplied rubbish bin in the municipality to assist in identification of entitlements to rubbish collection and to deter rubbish bin theft.
- (j) Council consider the introduction of an annual service charge for the provision of rubbish bins and a collection service to commence in the 2007/2008 rating year.

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CONFIDENTIAL BUSINESS REPORTS

The following items were deemed by the Chief Executive Officer to be suitable for consideration in closed session in accordance with section 89 (2) of the *Local Government Act* 1989. In accordance with that Act, Council may resolve to consider these issues in open or closed session.

RECOMMENDATION

1. That the meeting be closed to members of the public, in accordance with section 89 (2) of the *Local Government Act* 1989, to allow consideration of contractual matters.
2. That all information contained within the Confidential Business Reports section of this agenda and reproduced as Council Minutes be treated as being and remaining strictly confidential in accordance with the provisions of sections 77 and 89 of the *Local Government Act* 1989 until Council resolves otherwise.